



Department of Environmental Protection

Bureau of Land and Water Quality, 17 State House Station, Augusta, ME 04333

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SHORELAND ZONING NEWS

Shoreland Zoning Unit, Augusta (207) 287-2111, Bangor (207) 941-4570

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WOODED BUFFERS and PUBLIC OUTREACH

Nearly twelve years have passed since the shoreland zoning law prohibited new clearing to the shoreline, and required existing wooded buffers to be maintained. Town officials are still faced with too many tree cutting complaints and unsatisfactory resolutions. Stiff penalties and extensive replanting may "resolve" the immediate problem and provide some deterrent for those willing to break the law. However, such actions fail to reach those who are simply unaware of the rules and don't think to check at the town office. Once the trees are cut, you can't glue the trees back on the stump. Even if the area is replanted, it will be many years before the buffer is re-established.

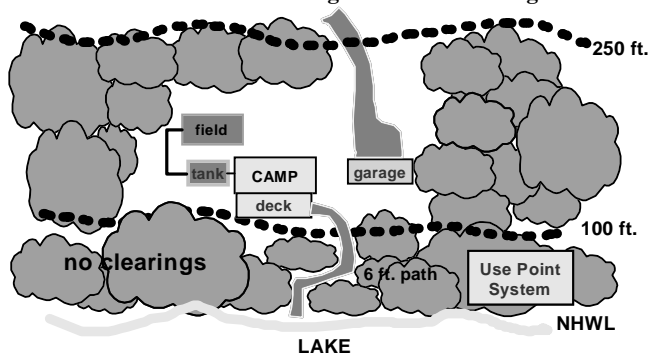
What seems to be missing is an effort to directly reach shore property owners with information before the fact. While the DEP publishes a number of generalized shoreland zoning information sheets that are widely distributed to town officials, real estate offices, lake associations, and other groups, we have no way of getting this information directly to individual shorefront property owners.

Since each town maintains mailing lists for all the property owners in town, it is possible to directly send useful ordinance and permitting information directly to those owners who need to know the rules, or at least to know where to find an answer. A few communities are already doing this, and it seems to be paying off with a better understanding of the rules and fewer violations.

Direct mailings do not need to be a significant expense. A number of communities already have a town newsletter, and simply include informational flyers with that mailing. At least one town has developed a separate mailing list for shorefront properties, and the shoreland zoning information is sent only to those property owners. These communities are taking steps to reach folks that are not being reached through other means. More communities should follow their lead.

CLEARING FOR DEVELOPMENT

Limited to 40% tree cutting / 25% lot clearing



PASS IT ON

Please share your copy of the *Shoreland Zoning News* with other town officials. We keep our costs and mailing lists manageable by sending four copies to one locally designated contact person to distribute to the selectmen, planning board, appeals board, and code officer. If you are the contact person, please make sure the newsletters reach the other town officials.

QUESTIONS AND ANSWERS

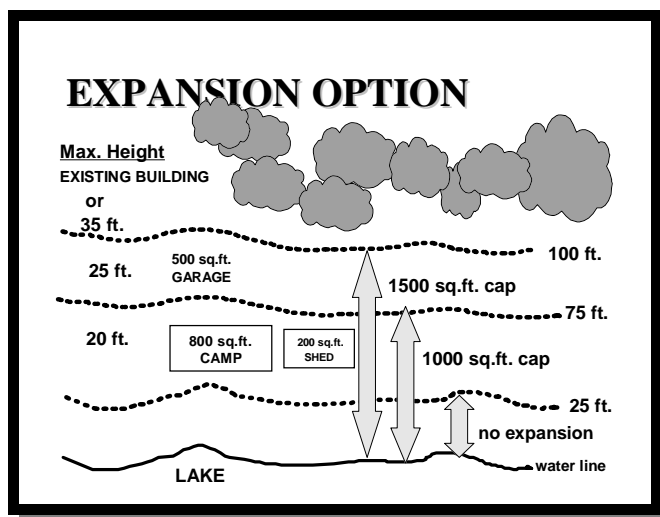
Question #1:

Our Planning Board is considering the alternative to the 30% expansion limit for nonconforming structures. If we adopt the new square foot cap alternative, can we also keep the standard 30% cap? That way, landowners could use whichever method gets them the larger expansion.

Answer:

No. The new square foot cap is intended as an alternative to the 30% rule, not a supplement. The purpose of the square foot alternative is to give towns another option regarding expansions of nonconforming structures that is easier to administer and track over time. It also is seen as a more equitable expansion option because it is not based on the size of the existing structure, but rather the setback distance from the shoreline.

If your town does decide to adopt the square foot cap alternative, make sure to delete only the 30% rule from your ordinance (Section 13,C,(1)(a) in the DEP guidelines). We have seen a number of communities this past year mistakenly delete the remaining nonconforming structure sections of the ordinance. These sections concerning Foundation enlargement, Relocation, Reconstruction, and Change in Use of Nonconforming Structures must be kept as part of the ordinance under the square foot expansion cap option.



Got a shoreland zoning question or issue you'd like to share with others? The Question and Answer section of the *Shoreland Zoning News* is a good forum for spreading the word. Just drop a note or telephone message to the shoreland zoning staff at the DEP, and we'll try to include it in an up-coming newsletter.

Question #2:

As a new code officer, I have been told on several occasions that an apparently new deck or other structure close to the shoreline is a replacement for one that previously existed. Of course, I can pursue the violation of failing to get the necessary permits prior to construction. However, how can I confirm if there was a prior structure?

Answer:

There are several possibilities. First, look under the structure for any evidence that there was a previous structure on the site. You can also check the property cards at the town office to see if the structure was identified during the last assessment. In addition to floor plan sketches, these cards often include photos of the property. Many communities also have aerial photos on file that were used to develop the property tax maps. Evidence of a prior structure may show on these photos. Another photo sources are the regional Natural Resource Conservation Service office, or the internet, which has a number of web sites that let you view aerial photos for your area.

Finally, a number of communities are taking the relatively easy step of videotaping the shorefront development in their communities. This can be done by the town officials, lake associations, or any number of volunteers. From our own experience in assisting a few towns in this effort, we have found it to be an excellent and inexpensive way to document the existing structures and vegetation along the shoreline. One videotape can cover many miles of shoreline and takes only a few hours.

QUESTION #3

The Planning Board is reviewing a fairly large commercial project located in a Limited Commercial District near the river that flows through our town. Because of the extensive building size and parking and storage areas, the project engineer has included a stormwater detention pond to collect all the run-off from these areas. It is located down-slope between the project site and the river. The proposed building and parking lot are already pretty close to the river. Does the detention pond also have to meet the shoreline setback standard?

ANSWER:

Yes. Detention ponds are “structures” as defined in the shoreland zoning law and must meet the same setback standards as buildings, roads, and parking lots. In addition, it is important to remember that the law and local ordinance requires that a buffer strip of trees and other vegetation be maintained within 75 feet of the river. So any clearing done as part of this project, including the construction of the detention pond, must be at least 75 feet from the river.

You should also be aware that larger projects like this commercial building, may require a permit from the DEP under Maine’s Stormwater Management Law. Generally, a permit is required under this law if more than 5 acres of land is being developed by filling, grubbing, or excavation; or if 1 acre or more of impervious area is being created (buildings, roads, parking lots, etc.). If the project is located in the watershed of a water body most at risk from development, the impervious area limit without permitting is 20,000 square feet. A copy of the law and list of water bodies at risk from development are available at the DEP offices.

CEO REPORT REMINDER

The Shoreland Zoning Law requires each community to report its shoreland zoning activity to the DEP every two years. The 1998-1999 report deadline was March 15, 2000. If you have not yet completed and returned the summary sheet for those years, please do so as soon as possible. If you have misplaced the form call us at 287-2111.

EROSION CONTROL PLANS

Activities listed in the Land Use Table as needing a CEO or Planning Board permit, and involving soil disturbance, require a written erosion and sedimentation control plan as part of the application. This includes all building construction, roads, driveways, parking areas, and most other development projects.

In discussing this issue with many town officials, this ordinance requirement is apparently often overlooked, but it is critically important to preserving the water quality shoreland zoning is intended to protect. Some have commented that such plans are too complicated for many property owners and contractors. They do not have to be.

Erosion control plans are simply a description of the steps to be followed to keep bare soil from eroding during construction and the plans for stabilizing the site afterwards. The plans need not be complicated and the basic elements are described in the Erosion and Sedimentation Control standards of the ordinance.

At a minimum, an erosion and sedimentation control plan should include:

1. A site sketch of the property showing the areas to be cleared and areas to remain wooded or undisturbed, including the required vegetated buffer along the shoreline. Most ordinances limit clearing within the shoreland zone to not more than 25 percent of the lot. This includes buildings, lawn areas, driveways, and septic systems.
2. A schedule for temporary and permanent mulching and revegetation consistent with ordinance standards. At a minimum, all disturbed sites need to be temporarily mulched within one week.
3. The location of temporary silt fencing, hay bales, and diversion ditches used during construction.
4. The location of permanent structures, such as landscape walls, terraces, and patios. Remember that these features must also meet shoreline setback standards and be located outside the buffer

THE ECONOMICS OF LAKES

According to University of Maine studies, clean lakes maintain lakeshore property values, contribute to the economic status of the communities, provide lower cost drinking water, and offer intrinsic, aesthetic value for recreation. Total recreational use on lakes statewide exceeds 12 million user days. Lake use pumps more than \$1.8 billion into the Maine economy and supports over 52,000 jobs. Fifty-four (54) percent of all these recreation dollars are spent in the towns bordering the lakes people visit. For example, on four central Maine lakes alone, the local economic activity was over \$1 million and 116 jobs were supported.

Surveys show that water clarity, quality of swimming, and scenic beauty are important to most people when they choose which lake to visit or where to buy property. A noticeable gain or loss in water quality could change state-wide use rates by up to 13% (1.6 million user-days) each year. The potential loss in property value if water clarity declines could be as much as \$36,000 per property. This makes an investment in lake protection a good deal not only for shorefront owners but for the whole community.

It is clear that economic losses due to declining lake water quality have already occurred, are real, and very large. Beyond the revenues and jobs lakes support, the quality of Maine life is directly linked to the beauty of its natural resources, and lakes are a major



MORE REMINDERS

ORDINANCE AMENDMENTS:

If your community has adopted changes to your shoreland zoning ordinance or map this past year, either at Town Meeting, Town Council vote, or at the November elections, the amendments must be sent to the DEP for approval before they are legally in effect. Amendments to shoreland zoning ordinances require DEP approval.

VARIANCE APPROVALS:

Whenever the Board of Appeals approves a variance in the shoreland zone, a copy of the variance must be sent to the DEP within 14 days of the decision.

NONCONFORMING STRUCTURE EXPANSION BONUS:

For those 25 communities that have adopted the 1000/1500 square foot expansion cap for nonconforming structures to replace the 30% rule. If any projects have been approved under the 500 square foot “special expansion allowance” provisions, a copy of permit must be sent to the DEP within 14 days of the permit being issued.

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